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Docket No.: 244863US2

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COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Application Serial No.: 10/699,890

Applicants: Takashi TERAUCHI, et al.

Filing Date: November 4, 2003

For: SEMICONDUCTOR DEVICE HAVING MEMORY
CELL PORTION AND MANUFACTURING
METHOD THEREOF

Group Art Unit: 2818

Examiner: VU, DAVID

SIR:

Attached hereto for filing are the following papers:

PROVISIONAL ELECTION

Our check in the amount of **\$0.00** is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
TAKASHI TERAUCHI ET AL : EXAMINER: VU, DAVID
SERIAL NO: 10/699,890 :
FILED: NOVEMBER 4, 2003 : GROUP ART UNIT: 2818
FOR: SEMICONDUCTOR DEVICE :
HAVING MEMORY CELL PORTION :
AND MANUFACTURING THEREOF :

PROVISIONAL ELECTION

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the election requirement dated April 21, 2004, Applicants provisionally elect with traverse Group I, Claims 12-17, drawn to a semiconductor device, classified in class 257, subclass 296, for further examination on the merits. Applicants reserve the right to file one or more divisional applications directed to the non-elected invention.

Furthermore, while the Election Requirement asserts that the application contains claims to patentably distinct inventions, MPEP § 803 states the following:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Although the outstanding Official Action identifies different search classifications, it is believed that the claims of the present application would have to be searched in a handful of sub-classes. Furthermore, since electronic searching is commonly performed, a search may be made of a large number of, or theoretically all, subclasses without substantial additional

effort. Accordingly, Applicants respectfully traverse the Restriction Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner, whereas it would be a serious burden on Applicants to prosecute and maintain separate applications.

Therefore, it is respectfully requested that the requirement to elect a single group be withdrawn, and that a full examination on the merits of Claims 1-17 be conducted.

Respectfully submitted,

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